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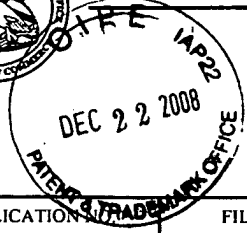
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,724	01/15/2004	Paul H. Morrill	05525/00003/US1	4582

7590 12/15/2008  
Stanley B. Green  
Connolly Bove Lodge & Hutz LLP  
1990 M Street, NW  
Suite 800  
Washington, DC 20036-3425

EXAMINER

PATEL, JAGDISH

ART UNIT PAPER NUMBER

3693

MAIL DATE DELIVERY MODE

12/15/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/757,724

Applicant(s)

MORRILL, PAUL H.

Examiner

JAGDISH N. PATEL

Art Unit

3693

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 99-163 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 99-163 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. This communication is in response to amendment filed 7/18/08.
2. Applicant's Remarks concerning 35 USC 112 (second) rejection of claims 99-163 are acknowledged.

***Claim Rejections - 35 USC § 112***

***Response to Arguments***

3. Oath/Declaration

Claim rejection under 35 USC 251 due to defective oath has been withdrawn.

4. Applicant's detailed account of the explanation of support for the new claims outlined on pp. 20-30 is acknowledged.
5. Claims 99-163 have been entered.

6. Applicant's arguments with respect to rejection of claims 99-163 under 35 USC 112 (Second) has been considered but are not deemed persuasive.

Claim 99 as a representative claim was rejected under 35 USC 112 (second) for omitting essential steps such omission amounting to a gap between the steps. The examiner has cited MPEP §2172.01 as basis for this type of rejection.

The applicant asserts that there is nothing incomplete in claim 99, or any other claims in the application citing MPEP §2172.01 which states that that "a claim which omitted matter disclosed to be essential to the invention as described in the specification or in other statements of record may be rejected...". The applicant argues that "There is nothing in the

Art Unit: 3693

specification of this application that is disclosed to the essential which is not found in the claims. The rejection does not contradict this assertion. “

The examiner respectfully disagrees with the applicant that there is nothing in the specification of this application that is disclosed to the essential which is not found in the claims.

The specification teaches "cell phone financial transaction procedure" starting at col. 2 L 17.

a wireless device is used to transfer funds between accounts belonging to the same entity/person or to an account belonging to another party (col.2 L 19-22),

Function as a Wallet

user first enters a unique function code on the key pad of the device to identify the type of the transaction or activity desired and pressing SEND. (col. 2 L 35-38)

in this case the CPU identifies the desired transaction and determines the desired transaction and involves a default amount. (col. 2 L 38-42)

Function: payment involving a variable amount (the examiner interprets this embodiment as desired funds transfer of claim 99)

As disclosed herein the transaction involves a variable amount entered by the user when prompted by the CPU (col. 2 L 45-49) and selection of user account to determined by the user (col. 2 L 50-55).

Therefore, it is respectfully pointed out that the claimed invention is deficient in that it omits the following essential step(s).

(1) fails to point out that the central processing unit (CPU) determines the types of user account to access for the type of the transaction (either default or user input unique account code)

(2) fails to point out that the authorizing and determining source account steps are performed by the CPU

(3) fails to recite determining or specifying account code to which the funds are to be transferred (see col. 2 L 66- col. 3 L 5) from the source account.

(4) The transaction cannot be complete unless there are sufficient funds in the identified source account. Therefore, the completion of the funds transfer must be preceded by verification that the source account has sufficient funds to cover the desired funds transfer.

In conclusion the aforementioned deficiencies are within the scope of and consistent with the disclosed invention. According 35 USC 112 (second) rejection of prior action (and supplemented by this action) is maintained.

Furthermore, the applicant is reminded that the deficiencies outlined above pertain to claim 99 and only serves as example. Other independent claims reciting similar deficiencies must also be amended correspondingly.

***Conclusion***

**7. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAGDISH PATEL whose telephone number is (571) 272-6748. The examiner can normally be reached on **800AM-630PM Mon-Tue and Thu.**

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **KRAMER JAMES A** can be reached on **(571)272-6783**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Art Unit: 3693

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/JAGDISH N PATEL/

Primary Examiner, Art Unit 3693